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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,652	04/19/2001	David Kyle	TT4390	9231

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EXAMINER
NGUYEN, TRONG NHAN P

ART UNIT	PAPER NUMBER
2152	

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/838,652	KYLE ET AL.
	Examiner	Art Unit	
	Jack P Nguyen	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10/18/04*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-52* is/are pending in the application.

    4a) Of the above claim(s) *27-39* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26 and 40-52* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

This action is in response to Applicant's amendment filed on 10/18/04. Claims

27-39 are canceled. Claims 1-26 and 40-52 are being examined.

Response to Arguments

Applicant's arguments filed on 10/18/04 have been fully considered but are not

persuasive. Applicant asserts, on pages 17-19, that Kakiuchi does not disclose,

"...checking status of said first connection by issuing a first request to said Internet

gateway to access a web server utilizing a protocol blocked under a logged off

status...determining whether said web server is accessed from said first request...and

automatically attempting to establish a second connection to said Internet gateway if

said web server was not accessed from said first request..." Per the first assertion,

Kakiuchi discloses the client computer (502, fig. 5) issues a request command (via client

browser) to the Internet gateway (505, fig. 5) to access the web server (504, fig. 5)

using HyperText Transfer Protocol 'HTTP' in order to access data on the web server

thus verifying the status of the network connection (col. 1, lines 40-42; i.e., if the

connection between the client and the web server fails or if the client is logged off, the

HTTP data retrieval request would be unsuccessful). Regarding the second assertion,

Kakiuchi discloses the client determines whether the web server is accessed from the

request by the server sending the requested data back to the client (col. 1, lines 42-45).

As to the final assertion, when a connection failure with the web server is detected,

evidenced by the client unable to access and retrieve data from the server, Kakiuchi

discloses the client (via its re-connection program {3003, fig. 25}} automatically tries to

re-connect with the gateway to re-establish connection with the server (col. 11, lines 38-

41; col. 11, lines 62 – col. 12, lines 6).

Applicant further asserts Kakiuchi does not disclose, "...wherein if said web

server was accessed from the first request, then ...waiting for a first period of

time...checking status of said first connection by issuing a second request to said

Internet gateway to access said web server utilizing said protocol blocked under said

logged off status...determining whether said web server is accessed from said second

request..." Examiner is interpreting after the client has successfully accessed the web

server, the client can send additional HTTP requests to the web server requesting

additional data at later times (col. 1, lines 40-45; client can send multiple HTTP requests

at different times to server; the server then returns the requested data to the client); by

performing this function, the client is inherently checking the status of the connection in

accordance with how the web is widely used. If there were an interruption of connection

or service between the client and the server, the client would not be able to access the

web server.

Applicant asserts Kakiuchi does not disclose, "...first connection is established by

a first logon procedure...terminating logon procedure..." The mobile computer (502, fig.

5) first establishes connection with the network by logging on to the wireless network

(510, fig. 5) (col. 1, lines 20-22; inherent before gaining access to the network).

Conversely, mobile computer can terminate or log off the network by canceling

(terminating) the logon procedure as desired.

As per the 103 rejection, Applicant asserts, "...there is no suggestion either Kakiuchi or Perlman to wait for a second period of time, where the second period of time is less than the first period of time..." In an analogous art to the claimed invention, Perlman discloses a broadband modem device that upon experiencing an interruption of service with the server, the modem device disconnects from the server and automatically reconnects with the server at a later time to resume normal communications with the server (col. 5, lines 63 – col. 6, lines 2). Perlman further discloses after the client disconnects with the server, the client then waits for a period of time (T1) before automatically reconnect with the server. In the cited example, the wait time (T1) is set for 10 seconds, but other time values can be set by the client (col. 6, lines 11-15). Hence, one of ordinary skill in the art can be motivated to modify and combine the teachings of Kakiuchi and Perlman to set the second wait time to be less than first wait time so the client would not have to wait as long before reconnecting with the server.

Examiner interprets from Applicant's assertion, "...*Applicants traverse the implied assertion that it is well known in the art to check the status of connection between a client and an Internet gateway by issuing a request to the Internet gateway to access a web server utilizing either the HyperText Transfer Protocol 'HTTP', the file transfer protocol 'FTP', or telnet protocol blocked under a logged off status,*" that it is incorrect to use well-known Internet protocols such as HTTP to access a web server thus checking the status of connection between the client and the web server. However, Kakiuchi discloses using HTTP to access and request data from the Web server; i.e., if the client

is in logged off status, the request cannot be made to the network/server thus the

request is blocked from accessing the network/server (col. 1, lines 40-45). Other

protocols such as FTP and telnet are well known in the art that could be used as a

substitute for HTTP to test the connection that would yield similar results.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 4-10, 14-15, 17-23, 40-41 and 43-49 are rejected under 35

U.S.C. 102(e) as being anticipated by Kakiuchi et al, 6,360,267 (hereafter

Kakiuchi).

As per claim 14, Kakiuchi discloses a system (fig. 1; client computer) comprising:

a processor (401, fig. 4; col. 3, lines 27-30); a memory unit storing a computer program

operable for automatically restoring logon connectivity in a network system (402, fig. 4;

col. 11, lines 38-41; using re-connection program (104, fig. 1), client can automatically

re-connect with the system); input mechanism (inherent in a computer); an output

mechanism (403, fig. 4; display is an output device); a bus system coupling the

processor to the memory unit, input mechanism, and output mechanism (inherent in a computer), wherein the computer program comprises the programming steps of:

establishing a first connection between client and said Internet gateway (col. 1, lines 18-25; client (502, fig. 5) connects with the web server (504, fig. 5) via the gateway server (505, fig. 5)); checking status of said first connection by issuing a first request to said Internet gateway to access a web server utilizing a protocol blocked under a logged off status (col. 1, lines 40-45; client (502, fig. 5) via its browser program uses HyperText Transfer Protocol 'HTTP' to access web server; i.e., by performing this function, the client device checks to see if the connection between itself and the web server is valid); determining whether said web server is accessed from said first request (col. 1, lines 40-45); and automatically attempting to establish a second connection between client and said Internet gateway if said web server was not accessed from said first request (col. 11, lines 38-41; col. 11, lines 62 – col. 12, lines 6; if connection with the web server fails, the client, via its re-connection program (104, fig. 1), attempts to automatically reconnect with the server).

Claims 1 and 40 recite similar limitations as claim 14; therefore, they are rejected using similar rationale as claim 14.

As per claims 2, 15, and 41, Kakiuchi discloses web server was accessed from said first request then the method further comprises the steps of:

waiting for a first period of time; and checking status of said first connection by issuing a second request to said Internet gateway to access said web server utilizing said

protocol blocked under said logged off status (col. 1, lines 40-45; client can send additional HTTP requests to the web server subsequent to the first request).

As per claims 4, 17, and 43, Kakiuchi discloses first connection is established by a first logon procedure (col. 1, lines 20-22; mobile computer connects with the network by first logging on to wireless network; inherent process before the mobile computer can gain access to the network).

As per claims 5, 18, and 44, Kakiuchi discloses terminating said first logon procedure; executing a second logon procedure (col. 7, lines 51-54; col. 11, lines 38-41; upon detecting a disruption of service (low or weak signal), the mobile device terminates the logon routine and automatically re-connects with the network using its re-connection program).

As per claims 6-8, 19-21 and 45-47, Kakiuchi discloses waiting for a first period of time; checking status of said attempted second connection by issuing a second request to said Internet gateway to access said web server utilizing said protocol blocked under said logged off status; determining whether said web server is accessed from said second request (col. 1, lines 40-45; after establishing connection with the gateway server, the client device sends an HTTP request to the web server for data; by performing this function, the client device can also confirm (determine) the connection between itself and the web server is valid).

As per claims 9, 22, and 48 are rejected for similar rationale as claims 2, 15, and 41.

As per claims 10, 23 and 49, Kakiuchi discloses automatically attempting to establish a third connection to said Internet gateway (col. 11, lines 38-41; mobile device will attempt to automatically re-connect with the gateway until it is successful).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3, 16, 29, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kakiuchi in view of Perlman et al, 6,308,221 (hereafter Perlman).

As per claims 3, 16, 29, and 42, Kakiuchi discloses the client sends HTTP request to the web server to check and confirm the connection between itself and the web server (see claim 14 rejection). Kakiuchi also discloses the client can send additional HTTP requests to the web server subsequent to the first request at later times (col. 1, lines 40-45). Kakiuchi does not explicitly disclose the waiting period for the subsequent attempt is less than the previous attempt. However, in an analogous art to the claimed invention, Perlman discloses the waiting periods (T1) can be customized by the client (Perlman cited, as an example, waiting 10 seconds before attempting automatic re-connection) (col. 6, lines 11-15). Hence, one of ordinary skill in the art can be motivated to modify and combine the teachings of Kakiuchi and Perlman to set the

subsequent waiting time to be less than previous waiting time so the client would not have to wait as long before reconnecting with the gateway server as desired.

Claims 11-13, 24-26, and 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kakiuchi.

As per claims 11-13, 24-26, and 50-52, Kakiuchi discloses Internet protocol used is HyperText Transport Protocol (col. 1, line 42) even though other Internet protocols such as file transfer protocol and telnet protocol were not explicitly mentioned. However, it would have been obvious to one of ordinary skill in the art to use any of the Internet protocols such as FTP and telnet to check the status of the connection because they all would yield similar results.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack P Nguyen whose telephone number is (571) 272-3945. The examiner can normally be reached on M-F 8:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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Business Center (EBC) at 866-217-9197 (toll-free).

jpn

Dung C. Dinh
Primary Examiner